

1 ORRICK, HERRINGTON & SUTCLIFFE LLP
KAREN G. JOHNSON-MCKEYAN (SBN 121570)
2 kjohnson-mckewan@orrick.com
ANNETTE L. HURST (SBN 148738)
3 ahurst@orrick.com
GABRIEL M. RAMSEY (SBN 209218)
4 gramsey@orrick.com
405 Howard Street, San Francisco, CA 94105
5 Tel: 1.415.773.5700 / Fax: 1.415.773.5759
PETER A. BICKS (*pro hac vice*)
6 pbicks@orrick.com
LISA T. SIMPSON (*pro hac vice*)
7 lsimpson@orrick.com
51 West 52nd Street, New York, NY 10019
8 Tel: 1.212.506.5000 / Fax: 1.212.506.5151

9 BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (*pro hac vice*)
10 dboies@bsflp.com
333 Main Street, Armonk, NY 10504
11 Tel: 1.914.749.8200 / Fax: 1.914.749.8300
STEVEN C. HOLTZMAN (SBN 144177)
12 sholtzman@bsflp.com
1999 Harrison St., Ste. 900, Oakland, CA 94612
13 Tel: 1.510.874.1000 / Fax: 1.510.874.1460

14 ORACLE CORPORATION
DORIAN DALEY (SBN 129049)
dorian.daley@oracle.com
15 DEBORAH K. MILLER (SBN 95527)
deborah.miller@oracle.com
16 MATTHEW M. SARBORARIA (SBN 211600)
matthew.sarboraria@oracle.com
17 RUCHIKA AGRAWAL (SBN 246058)
ruchika.agrawal@oracle.com
18 500 Oracle Parkway,
Redwood City, CA 94065
19 Tel: 650.506.5200 / Fax: 650.506.7117

20 *Attorneys for Plaintiff*
ORACLE AMERICA, INC.

21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23 SAN FRANCISCO DIVISION

24 ORACLE AMERICA, INC.
25 Plaintiff,
26 v.
27 GOOGLE INC.
28 Defendant.

Case No. CV 10-03561 WHA
ORACLE'S RESPONSE TO ECF NO. 1542
Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

1 On March 21, 2016, the Court issued an order requesting further information regarding
2 passive logged-out review of jurors' Facebook profiles. The Court's March 21 order provides:

3 In its most recent brief on social media searches, Oracle indicated that it only
4 intends to conduct passive Internet searches of the jurors for public social media
5 posts in order to monitor for potential misconduct, such as posting commentary
6 about the case and that its investigators would not log in to any social media sites
7 while monitoring the jurors' online activity (Dkt. No.1537 at 1). As the Court
8 understands it, however, Facebook users' "timelines" and lists of "friends" are not
available to Internet users without Facebook accounts (or users who have logged
out of their Facebook accounts). This limitation applies regardless of the user's
privacy settings. By WEDNESDAY, MARCH 23 AT NOON, Oracle will please
clarify how it intends to use passive logged-out review of jurors' Facebook
profiles to monitor any juror misconduct throughout the course of the trial.

9 ECF No. 1542.

10 Facebook permits users to configure their privacy settings so that timeline posts,
11 photographs, and other user information are viewable by persons who are not logged into
12 Facebook. Oracle's proposal is that the parties be permitted to conduct passive searches for such
13 public information only by persons who are not logged into Facebook.

14 Dated: March 23, 2016

ORRICK, HERRINGTON & SUTCLIFFE
LLP

15 By: /s/ Peter A. Bicks
16 PETER A. BICKS

17 Attorneys for Plaintiff
18 ORACLE AMERICA, INC.
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